

regard, U.S. Trust can request the Club to take one of several remedial actions. The Club can make additional cash contributions to the Plan, it can prepay rent to the Plan, it can purchase the Building from the Plan under the Repurchase Option; or the Club can take other measures as may be acceptable to U.S. Trust.<sup>11</sup> Failing these remedies, from the date the 25% limitation is first exceeded the Plan will undertake an orderly disposition of the Building in such manner as to cure the violation within 9 months (the Disposition Period).

18. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act and section 4975(c)(2) of the Code because:

(1) all terms and conditions of the Purchase, the Lease, the Repurchase Option, and the Make Whole Obligation are and will be at least as favorable to the Plan as those the Plan could obtain in an arm's-length transaction with an unrelated party;

(2) the Lease will have an initial term of fifteen years with three five year renewal options, and will be a triple net lease under which the Club as the tenant is obligated for all operating expenses, including real estate taxes, insurance, repairs, maintenance, electricity and other utilities;

(3) the fair market value of the Building has been determined by an independent qualified appraiser, and will be updated as of the date of purchase by the Plan;

(4) with respect to the Lease, the fair market rental amount has been and will be determined by an independent qualified appraiser, which amount will never be below the initial fair market annual rental amount of \$470,000;

(5) with respect to the Lease, appraisals of the Building will be performed at three year intervals during the initial fifteen year term of the Lease, and at five year intervals with respect to the three renewal periods for purposes of updating the fair market rental amount to be received by the Plan;

(6) the fair market value of the Building, generally, will not exceed 25% of the Plan's total assets;

(7) an independent fiduciary will be appointed to review, approve and monitor the transactions described

herein, and the fees received by the independent fiduciary for serving in such capacity, combined with any other fees derived from the Club or related parties, will not exceed 1% of its annual income for each fiscal year that it continues to serve in the independent fiduciary capacity with respect to these transactions;

(8) U.S. Trust, as the independent fiduciary, will evaluate the transactions described herein and deemed them to be administratively feasible, protective and in the interest of the Plan;

(9) U.S. Trust, as the independent fiduciary, will monitor the terms and the conditions of the exemption and the Lease throughout its initial term plus the three renewal periods, and will take whatever action is necessary to protect the Plan's rights;

(10) U.S. Trust, as the independent fiduciary, will monitor the net subleasing amount received by the Club during any annual period under the Lease. If such subleasing amount results in a profit to the Club, the Club will contribute this profit to the Plan; and

(11) the Plan will bear no costs or expenses with respect to the transactions described herein.

#### Notice to Interested Persons

The applicant represents that, within five (5) days of the publication of the notice of proposed exemption (the Notice) in the **Federal Register**, all interested persons will receive a copy of the Notice, the beginning and ending information that appears with the Notice, and a copy of the supplemental statement, as required, pursuant to 29 CFR 2570.43(b)(2), either by posting on bulletin boards at locations at which employees covered under the Plan are employed, or by first class mail to the last known address to all other interested persons, including retirees, separated vested employees and beneficiaries of deceased participants. Comments and hearing requests on the proposed exemption are due thirty-five (35) days after the date of publication of this proposed exemption in the **Federal Register**.

For Further Information Contact: Ekaterina A. Uzlyan, U.S. Department of Labor, telephone (202) 219-8883. (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other

provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of July, 1995.

**Ivan Strasfeld,**

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.*

[FR Doc. 95-18717 Filed 7-28-95; 8:45 am]

BILLING CODE 4510-29-P-M

#### NUCLEAR REGULATORY COMMISSION

[Docket No. 50-382]

#### Entergy Operations, Inc., Waterford Steam Electric Station, Unit No. 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption

<sup>11</sup> The Department notes that if at any time during the 9 month Disposition Period, the Building exceeds 30% of the Plan's total assets, the exemption, if granted, will no longer be available. The Department further notes that it expects U.S. Trust, consistent with its fiduciary responsibilities under Title I of the Act, to periodically monitor the financial condition of the Club in order to take a remedial action not requiring the disposition of the Building.

from Facility Operating License No. NPF-38, issued to Entergy Operations, Inc., (the licensee), for operation of the Waterford Steam Electric Station Unit, No. 3 (Waterford 3) located in St. Charles Parish, Louisiana.

### Environmental Assessment

#### *Identification of the Proposed Action*

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application of November 16, 1993, as supplemented on August 19, 1994, March 30, and June 19, 1995. The proposed action would exempt the licensee from the requirements of 10 CFR Part 50, Appendix J, Paragraph III.D.1.(a), to the extent that a one-time interval extension for the Type A test (containment integrated leak rate test) by approximately 18 months, from the September 1995 refueling outage to the refueling outage in 1997, would be granted.

#### *The Need for the Proposed Action*

The proposed action is needed to permit the licensee to defer the Type A test from the September 1995 refueling outage, to the 1997 refueling outage, thereby saving the cost of performing the test and eliminating the test period from the critical path time of the outage.

#### *Environmental Impacts of the Proposed Action*

The Commission has completed its evaluation of the proposed action and concludes that the proposed one-time exemption would not increase the probability or consequences of accidents previously analyzed and the proposed one-time exemption would not affect facility radiation levels or facility radiological effluents. The licensee has analyzed the results of previous Type A tests performed at Waterford 3 to show good containment performance and will continue to be required to conduct the Type B and C local leak rate tests which historically have been shown to be the principal means of detecting containment leakage paths with the Type A tests confirming the Type B and C test results. It is also noted that the licensee will perform the visual containment inspection although it is only required by Appendix J to be conducted in conjunction with Type A tests. The NRC staff considers that these inspections, though limited in scope, provide an important added level of confidence in the continued integrity of the containment boundary.

The change will not increase the probability or consequences of accidents, no changes are being made in

the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does involve features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

#### *Alternatives to the Proposed Action*

Since the Commission has concluded there is so measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the NRC staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impact of the proposed action and the alternative action are similar.

#### *Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Waterford Steam Electric Station, Unit No. 3.

#### *Agencies and Persons Consulted*

In accordance with its stated policy, on June 30, 1995, the NRC staff consulted with the Louisiana State official, Prosanta Chowdhun of the LA Radiation Protection Division, regarding the environmental impact of the proposed action. The State official had no comments.

#### **Finding of No Significant Impact**

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 16, 1993, as supplemented by letters dated August 19, 1994, March 30, and June 19, 1995, which are available for public

inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and the local public document room located at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

Dated at Rockville, Maryland, this 14th day of July 1995.

For the Nuclear Regulatory Commission.

**Chandu P. Patel,**

*Project Manager, Project Directorate IV-1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.*

[FR Doc. 95-18685 Filed 7-28-95; 8:45 am]

BILLING CODE 7590-01-M

### **Proposed Generic Communication and Draft Regulatory Guide; Issuance, Availability**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of opportunity for public comment on the proposed bulletin and draft guide.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to issue a bulletin titled "Potential Plugging of Emergency Core Cooling Suction Strainers for Debris in Boiling Water Reactors"; the text of the bulletin is included in this notice under the Supplementary Information heading. The proposed bulletin would request boiling water reactor (BWR) licensees to implement appropriate procedural measures and plant modifications to minimize the potential for clogging of suppression pool suction strainers of emergency core cooling systems (ECCS) by debris generated during a loss-of-coolant accident (LOCA). The NRC has also issued a related Draft Regulatory Guide, DG-1038, "Water Sources for Long-Term Recirculation Cooling Following a Loss-of-Coolant Accident," which is a proposed Revision 2 to Regulatory Guide 1.82. The draft guide provides additional technical guidance to BWR licensees. The draft guide has not received complete staff review and does not represent an official NRC staff position.

The proposed bulletin and draft guide are being issued to involve the public in the development of a regulatory position in this area. The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed bulletin and draft guide. The titles of the proposed bulletin and draft guide should be mentioned in all correspondence.